United Nations A/CN.4/L.851

General Assembly

Distr.: Limited
22 May 2015

Original: English

**International Law Commission**
**Sixty-seventh session**
Geneva, 4 May–5 June and 6 July–7 August 2015

## Protection of the atmosphere

### Texts and titles of draft conclusions 1, 2 and 5, and preambular paragraphs provisionally adopted by the Drafting Committee on 13, 18, 19 and 20 May 2015

...

Acknowledging that the atmosphere is essential for sustaining life on Earth, human health and welfare, and aquatic and terrestrial ecosystems,

Bearing in mind that the transport and dispersion of polluting and degrading substances occur within the atmosphere,

Recognising therefore that the protection of the atmosphere from atmospheric pollution and atmospheric degradation is a pressing concern of the international community as a whole,

Recalling that these draft guidelines are not to interfere with relevant political negotiations, including those on climate change, ozone depletion, and long-range transboundary air pollution, and that they also neither seek to "fill" gaps in treaty regimes nor impose on current treaty regimes legal rules or legal principles not already contained therein,*

[Some other paragraphs may be added, and the order of paragraphs may be coordinated, at a later stage.]

...

*The terminology and location of this paragraph, which derives from paragraph 168 of the report of the International Law Commission, A/68/10 2013, will be revisited at a later stage in the Commission's work on this topic.

GE.15-10314 (E)

*1510314*

Please recycle

Draft guideline 1: Use of terms

For the purposes of the present draft guidelines,

(a) "Atmosphere" means the envelope of gases surrounding the Earth;

(b) "Atmospheric pollution" means the introduction or release by humans, directly or indirectly, into the atmosphere of substances contributing to deleterious effects extending beyond the State of origin, of such a nature as to endanger human life and health and the Earth's natural environment;

(c) "Atmospheric degradation" means the alteration by humans, directly or indirectly, of atmospheric conditions having significant deleterious effects of such a nature as to endanger human life and health and the Earth's natural environment.

Draft guideline 2: Scope of the guidelines

1. The present draft guidelines [contain guiding principles relating to] [deal with]* the protection of the atmosphere from atmospheric pollution and atmospheric degradation.

2. The present draft guidelines do not deal with, but are without prejudice to questions concerning the polluter-pays-principle, the precautionary principle, common but differentiated responsibilities, the liability of States and their nationals, and the transfer of funds to developing countries, including intellectual property rights.

3. The present draft guidelines do not deal with specific substances, such as black carbon, tropospheric ozone, and other dual-impact substances, which are the subject of negotiations among states.

4. Nothing in the present draft guidelines affects the status of airspace under international law nor questions related to outer space, including its delimitation.

Draft guideline 5: International cooperation

(a) States have the obligation to cooperate, as appropriate, with each other and with relevant international organisations for the protection of the atmosphere from atmospheric pollution and atmospheric degradation.

(b) States should cooperate in further enhancing scientific knowledge relating to the causes and impacts of atmospheric pollution and atmospheric degradation. Cooperation could include exchange of information and joint monitoring.

---

*The alternative formulations in brackets will be subject to further consideration.